

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

1100P548US2

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on June 19, 2008

Signature /Spencer A. Bartl/

Typed or printed name Spencer A. Bartl

Application Number

10/697,850

Filed

October 30, 2003

First Named Inventor

Baker, et al.

Art Unit

3609

Examiner

Beegle, Heather L.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

/Robert V. Racunas/

Signature

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

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attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

June 19, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.

Submit multiple forms if more than one signature is required, see below.

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\*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 1.16. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Serial No.	:	10/697,850	Confirmation No.:	9757
Applicant	:	Baker et al.		
Filed	:	October 30, 2003		
Art Unit	:	3609		
Examiner	:	Beegle, Heather L.		
Docket No.	:	1101P548US2		

Title: SCALABLE NETWORK APPARATUS FOR CONTENT BASED  
SWITCHING OR VALIDATION ACCELERATION

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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Applicants have carefully reviewed and considered the Final Office Action mailed on March 19, 2008 and the cited references. In response to the Final Office Action, Applicants respectfully request review prior to the filing of an Appeal Brief.

**Claim Rejections – 35 USC §103(a)**

Claims 1-4, 6-7, 9-10, 12 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Barni in view of Lessin.

Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Barni in view of Lessin and further in view of Maritzen.

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Barni and Lessin and further in view of US 2002/0152130 to Salls (“Salls”).

Claims 11, 14-17 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Barni and Lessin and further in view of Nakfoor.

Claims 18 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakfoor and further in view of Maritzen.

Claims 21-22 and 29-32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Salls in view of Lessin.

Claims 23-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Salls and Lessin and further in view of Nakfoor.

Claims 33-35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Salls and Lessin and further in view of US 2002/0133445 to Petras, et al. ("Petras").

Applicant respectfully traverses these rejections.

### **REMARKS**

#### **Office Action Deficiencies**

Applicants respectfully submit that the Office Action mailed on March 19, 2008 contains deficiencies rendering the Office Action unclear and ineffective. For example, at page 9 the Office Action states, regarding claims 15, 16 and 17, that "Tam et al. fails to explicitly disclose third party comprising a charitable or nonprofit entity, political action committee, fundraising entity." Claims 15, 16 and 17, however, depend from independent claim 13 that stands rejected under US 6,920,429 to Barni, et al. ("Barni") in view of US 2002/0133445 to Lessin ("Lessin"). Applicants respectfully submit that the above cited language referencing Tam and failing to reference Barni and Lessin renders the rejection of dependent claims 15, 16 and 17, additionally rejected on page 8 in view of Barni, Lessin and US 6,496,809 to Nakfoor ("Nakfoor"), unclear.

Furthermore, Applicants submit that the rejection of claims 18 and 19 at page 10, paragraph 11 of the Office Action over Nakfoor in view of US 5,987,429 to Maritzen, et al. ("Maritzen") is also unclear. Claims 18 and 19 depend from claim 13 that, as recited above, is rejected over Barni and Lessin. Applicants submit that claims 18 and 19 include each and every element recited in independent claim 13 based on their dependency. Furthermore, Nakfoor and Maritzen, taken alone or in combination, fail to teach, suggest or disclose each and every element recited in claim 13 and claims 18 and 19 that depend from claim 13 and contain additional features. Applicants submit, therefore, that the rejection with respect to dependent claims 18 and 19 is unclear.

As stated above, Applicants submit that the Office Action mailed on March 19, 2008 contains deficiencies rendering the Office Action unclear and ineffective. Consequently, a new non-final office action is respectfully requested.

It is believed that claims 1, 2, 16, 17 and 21-26 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited. The Examiner is invited to contact the undersigned at 724-933-9338 to discuss any matter concerning this application. The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to the credit card in the previously filed credit card authorization form.

### **35 USC §103(a) Rejections**

Applicants respectfully submit that the cited references fail to teach, suggest or disclose each and every element recited in independent claim 1. For example, claim 1 recites the following language, in relevant part:

the seller interface includes one or more options to donate at least a portion of funds received in exchange for the one or more goods;  
and

... transferring the portion of the funds for donation according to an option selection of the seller to a third party designated by the seller....

According to the Office Action, the missing language is disclosed by Lessin at paragraph [0019]. Applicant respectfully disagrees.

Applicants respectfully submit that Lessin fails to disclose the missing language of the claimed subject matter. For example, Lessin at the given cite, in relevant part, states:

Moreover, the present invention provides for contributors setting the parameters for which they will donate the money. Such parameters may include...

if the funding request is for a business, that the Applicant insure that a percentage of the business profits pay for a specific item (e.g., a percentage of the profits be donated to charity, and the like).

By way of contrast, the claimed subject matter teaches "the seller interface includes one or more options to donate at least a portion of funds received in exchange for the one or more goods; and... transferring the portion of the funds for donation according to an option selection

of the seller to a third party designated by the seller....” Applicants submit that this is clearly different than the above recited teaching of Lessin.

Applicants respectfully submit that Lessin, arguably, teaches a marketplace for the development and reward of human potential in which an Applicant can market their ideas and Contributors can donate money to the Applicants for the pursuit of their ideas. More particularly, Lessin teaches that Contributors can select the conditions under which they will donate money, one such condition being that the Applicant will donate a percentage of the profits generated from the pursuit of their idea to a charity. Applicants respectfully submit that this is clearly different than the above recited language of independent claim 1.

Claim 1 states that the portion of the funds for donation is transferred according to an option selection of the seller to a third party designated by the seller. In contrast, Lessin arguably teaches that the selection regarding the desired distribution of funds is made by the Contributor, or the person paying for the service in the case of Lessin. Furthermore, Applicants submit that donating profits for a service to be rendered in the future, as taught by Lessin, is different than donating funds received from goods that have already been sold as recited in claim 1. Consequently, Applicants submit that Lessin fails to teach, each and every element recited in claim 1.

Applicants respectfully submit that they have been unable to locate at least the above recited language of claim 1 in the teaching of Lessin. Furthermore, Applicants submit that Barni, Maritzen, Salls, Nakfoor and Petras also fail to teach, suggest or disclose at least the above recited language of claim 1. Therefore, the cited references, taken alone or in combination, fail to disclose, teach or suggest the missing language.

For at least these reasons, Applicants submit that claim 1 is patentable over the cited references, whether taken alone or in combination. In addition, claims 13 and 21 recite features similar to those recited in claim 1. Therefore, Applicants respectfully submit that claims 13 and 21 are not obvious and are patentable over the cited references for reasons analogous to those presented with respect to claim 1.

Accordingly, Applicants respectfully request removal of the obviousness rejection with respect to claims 1, 13 and 21. Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for

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example. Therefore, Applicants respectfully request withdrawal of the obviousness rejection with respect to claims 2-12, 14-20 and 22-35 that depend from claims 1, 13 and 21 respectively, and contain additional features that further distinguish these claims from the cited references.

For at least the above reasons, Applicants submit that claims 1-35 recite novel features not shown by the cited references. Further, Applicants submit that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicants submit that the claims are not anticipated nor rendered obvious in view of the cited references.

Respectfully submitted,

KACVINSKY LLC

/Robert V. Racunas/

Robert V. Racunas, Reg. No. 43,027  
Under 37 CFR 1.34(a)

Dated: June 19, 2008

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